

C O P Y

HEADQUARTERS EIGHTH ARMY
United States Army
Office of the Staff Judge Advocate
APO 343

April 1946

Case 4

UNITED STATES OF AMERICA VS KAICHI HIRATE

Review of the Staff Judge Advocate

1. The attached record of trial by Military Commission appointed by paragraph 1, Special Orders No. 10, Headquarters, Eighth Army, dated 11 January 1946 having been referred to the Staff Judge Advocate, this review of the record with an opinion and recommendation relating thereto is submitted to the Commanding General, Eighth Army.

Personal Data Concerning Accused

NAME: Kaichi Hirate
AGE: Twenty-nine (29).
RESIDENCE: Kitamishi, Sanjodori, Higashi, San-chome, Hokkaid
MARITAL STATUS: Single
PARENTS: Father living; mother dead.
BROTHERS & SISTERS: One older brother; one younger sister, both living.
EDUCATION: Foreign Language School, Osaka.
VOCATION: Librarian, Korean Government Library.
SERVICE: Enlisted, Japanese Imperial army, 1 May 1940, served as an enlisted man from 1 May 1940 to August 1941, served as a Troop transport enlisted man and non-commissioned Officer. He was ordered to First Branch Camp at Hakodate 20 or 21 November 1942 as a 1st Lt. and Camp Commander. He remained as Camp Commander until the end of the War. He was promoted to Captain while at the camp.

2. Synopsis of Charges, Opinion and Recommendation:

<u>Charge and Specification</u>	<u>Pleas</u>	<u>Findings</u>	<u>Legally Sustained</u>
Charge: Violation of Laws and Customs of War between 13 January 1943 and 1 September 1945, did at Hakodate First Branch Camp, Muroran, Hokkaido, Japan, unlawfully commit cruel and brutal atrocities and other offenses against certain Allied Prisoners of War and did unlawfully disregard and fail to discharge his duty as Camp Commander and restrain the members of his command, permitting them to commit cruel and brutal atrocities and other offenses against allied Prisoners of war held in said Camp.	Not Guilty (R. 355) (R. 18).	Guilty	Yes
Specification 1: About 23 December 1943 mistreat, brutally torture, beat, starve and expose to a frigid temperature Raymond C. Suttle until he died.	Not Guilty (R. 354) (R. 18)	Guilty	Yes
Specification 2: About 23 December 1943 did unlawfully and willfully erase certain incriminating statements from the "cause of Death" record in the instance of R. Suttle and thereby issued a false Official record concerning the death of said Suttle.	Not Guilty (R 18)	Nolle Prose (R 104)	

<u>Charge and Specification</u>	<u>Plea</u>	<u>Findings</u>	<u>Legally Sustained</u>
Specification 3: Did unlawfully and willfully, brutally beat with a sword and inhumanly torture by starving and causing to stand at attention for a long period of time, one D. Ratcliffe.	Not Guilty Guilty (R 354)	Yes Except the words "And other Allied Prisoners of War". of the excepted words, not guilty. (R 354)	Yes
Specification 4: Brutally and inhumanly beat Wenzas and other Allied Prisoners of War.	Not Guilty Guilty (R 18)	Yes Except the words "And other Allied Prisoners of War". of the excepted words, not guilty. (R 354)	Yes
Specification 5: Brutally and inhumanly beat many American and Allied Prisoners of War.	Not Guilty Guilty (R 18)	Yes Except the words "many", of the excepted words. Not guilty. (R 354)	Yes
Specification 6: About 1 January 1943 to about 1 September 1945 did unlawfully withhold and deny and deprive many sick American and Allied Prisoners of War of medicine, medical attention and treatment resulting in their serious illnesses, permanent injuries, wounds and death.	Not Guilty Guilty (R 18)	Yes Except the words "many", of the excepted words. not guilty. (R 354)	Yes
Specification 7: Did unlawfully and willfully withhold, deny and deprive from the Prisoners of War under his command and control, Red Cross Supplies containing food, medicines, tobacco and other items intended for the use and benefit of said Prisoners of War.	Not Guilty Guilty (R 18)	Not Guilty Guilty (R 354)	
Specification 8: Did unlawfully disregard and fail to discharge his duty as such commanding officer by permitting persons under his Command and supervision to commit the following brutal atrocities:			
a. From about 12 January 1943 until 1 September 1945, unlawfully mistreat and abuse numerous and unidentified sick and hospitalized prisoners of war by parading them daily and beat them with clubs, rifle butts, fists, sabers, leather belts and rubber hoses.	Not Guilty Guilty (R 18)	Guilty Except the words "rifle butts" and "sabers" of the excepted words, not guilty (R 354)	Yes
b. From 12 January 1943 until 1 September 1945 unlawfully beat, starve, expose to a frigid climate without clothing, retain in solitary confinement without food, clothing and medical treatment, deprive of medical attention for long periods of time and suspending weights from the persons of said prisoners and by otherwise abusing and mistreating numerous American and other Allied Prisoners of War.	Not Guilty Guilty (R 18)	Guilty (R 354)	Yes
c. Between 6 February 1943 and 6 May 1945 unlawfully beating one J. Kennedy.	Not Guilty Guilty (R 19)	Guilty (R 354)	Yes

<u>Charges and Specifications</u>	<u>Pleas</u>	<u>Findings</u>	<u>Legally Sustained</u>
d. In the month of April 1943, unlawfully mistreat, abuse and cause the death of one J. Pellenneau, by beating, starving, refusing and depriving him of medical treatment.	Not Guilty (R 18)	Guilty Except the word "April" substituting therefor the word "May" of the excepted word, not guilty, of the substituted word, guilty. (R 354)	Yes
e. On or about 4 April 1943, unlawfully torture, mistreat and beat with a stick and rubber hose, Von Daalen Mayer causing him to quit his hospital bed and resulting in his death.	Not Guilty (R 18)	Guilty Except the words "and rubber hose" of the excepted words, not guilty. (R 354)	Yes
f. About 10 April 1943 unlawfully and by the use of force and threats take, steal and carry away one wrist watch from L. Campbell.	Not Guilty (R 18)	Guilty (R 354)	Yes
g. About 26 April 1943 take, steal and carry away food, tobacco and other Red Cross supplies intended for the use and benefit of Prisoners of War.	Not Guilty (R 18)	Guilty (R 354)	Yes
h. In May 1943 by force and threats take, steal and carry away one watch from T. Beach, and beat him with a club.	Not Guilty (R 18)	Guilty (R 354)	Yes
i. Between 26 October 1943 and 16 December 1943 unlawfully beat G. Booth, an allied prisoner of War, by striking him with a rifle	Not Guilty (R 18)	Guilty (R 354)	Yes
j. Between 1 October 1943 and May 1944 beat J Winchester and other Allied Prisoners of War, by striking them across their faces with a leather belt and make them beat each other.	Not Guilty (R 18)	Guilty (R 354)	Yes
k. About 27 October 1943 beat and kick C. Thirtwell.	Not Guilty (R 18)	Guilty Except the words "and kick" of the excepted words, not guilty. (R 355)	Yes
l. In November 1943 beat and torture F. Robertson by beating him with fists, rifle butt and kicking him.	Not Guilty (R 18)	Guilty (R 355)	Yes
m. About 7 November 1943 beat and torture W. Crone by beating him with fists, rifle butt and kicking him.	Not Guilty (R 18)	Guilty (R 355)	Yes
n. About 7 November 1943 beat L. Rudge-	Not Guilty (R 18)	Guilty (R 355)	Yes

<u>Charge and Specifications</u>	<u>Plea</u>	<u>Findings</u>	<u>Legally Sustained</u>
c. About November 1943 savagely beat J. Knudson, an American Prisoner of War, by inhumanly beating him with a solve poker and kicking him in the sides until he was unconscious.	Not Guilty (R 355) Guilty (R 18)	Not Guilty (R 355) Guilty (R 18)	Yes
p. In December 1943 beat and torture W. Hossason by striking him with fists and making him stand in the snow with weights suspended from his naked body.	Not Guilty (R 355) Guilty (R 18)	Not Guilty (R 355) Guilty (R 18)	Yes
q. About 20 December 1943 beat and torture D. Ratcliff, by beating him with a belt and striking him with a bayonet.	Not Guilty (R 355) Guilty (R 18)	Not Guilty (R 355) Guilty (R 18)	Yes
r. About 31 December 1943 mistreat E. Glover by beating him with a stick.	Not Guilty (R 355) Guilty (R 18)	Not Guilty (R 355) Guilty (R 18)	Yes
s. About 24 December 1943 beat D. Jackson until he was unconscious.	Not Guilty (R 355) Guilty (R 18)	Not Guilty (R 355) Guilty (R 18)	Yes
t. About 10 January 1944 beat E. Bean.	Not Guilty (R 355) Guilty (R 18)	Not Guilty (R 355) Guilty (R 18)	Yes
u. In January 1944 beat L. Hobbs, by striking him across the face with a studded belt.	Not Guilty (R 355) Guilty (R 18)	Not Guilty (R 355) Guilty (R 18)	Yes
v. About 13 February 1944 beat and torture S. Hayes by beating him with a rifle and making him stand in bare feet in the snow.	Not Guilty Guilty	Not Guilty Guilty Except the words "on or about 13 February 1944" & substituting therefor "during December 1943" of the excepted words, not guilty, of the substituted words, Guilty. (R 355)	Yes
w. About 13 February 1944 beat J. Grant	Not Guilty (R 18) Guilty (R 355)	Not Guilty (R 355) Guilty (R 18)	Yes
x. About 15 February 1943 beat with a bamboo club L. Campbell and 32 others.	Not Guilty (R 18) Guilty (R 355)	Not Guilty (R 355) Guilty (R 18)	Yes
y. In May 1944 beat and torture V. Naument by beating him across the face with a belt.	Not Guilty (R 18) Guilty (R 355)	Not Guilty (R 355) Guilty Except the words "and torture" of the excepted words, Not guilty. (R 355)	Yes
z. In August 1944 beat R. Toogood.	Not Guilty (R 18) Guilty (R 355)	Not Guilty (R 355) Guilty (R 18)	Yes

4. Summary of the Evidence:

a. For the Prosecution.

By an exchange of correspondence through the legation, the Japanese Government agreed to apply "Mutatis Mutandis" the provisions of the Geneva Prisoner of War Convention to American Prisoners of War within its power. (Ex 1, R 21). Accused was established as Camp Commander, Hakodate First Branch Camp from 1-12-142 to the end of the War (Ex 2, R 21).

Deaths of Prisoners of War caused by the accused directly were charged in Specification 1, (Raymond G. Suttle) and Specification 6 (many); deaths caused indirectly by accused as Camp Commander permitting such actions were charged in Specifications 9d (Pellencau), 8a (Von Dealen Mayer), 8x (E. Glover). Inasmuch as there were so many charges against the accused that an analysis of the proof of each charge proven seems impracticable and unnecessary as it has been checked in the above table, attention is concentrated on the proof of these "death" charges.

As to Specification 1. (That about 23 December 1943 -- (accused did mistreat, torture, beat, starve and expose to a frigid temperature. -- Raymond G. Suttle, an Allied Prisoner of War until he died.)) Many (14) affidavits, most of which were of the questionnaire form presented to liberated Allied Prisoners agree substantially that for punishment for stealing food (Ex 6, R 29) (Ex 9, R 33) (Ex 19, R 42) Private Raymond Suttle 2616096, 4th Suffolk Page (Ex 92, R 71) was confined in the guard room in very cold weather with only a shirt and slacks on, and without blankets (Ex 5, R 29; Ex 9, R 33). He was without food for (Ex 9, R 22). five days and made to stand outside in temperature of approximately 20 degrees Centigrade (18 degrees below Fahrenheit), or freezing (Ex 39, R 49; Ex 11, R 35). He was continually beaten up (Ex 9, R 33; Ex 7, R 30; Ex 59, R 56; Ex 6, R 29; ex 5, R 29; Ex 3, R 22; Ex 4, R 27; Ex 13, R 36; Ex 15, R 38; Ex 17, R 41; Ex 23, R 44; Ex 28, R 46). He was removed to a hospital in a frozen condition, his legs being gangrenous and frostbitten (Ex 16, R 40; Ex 19, R 42; Ex 20 R 43; Ex 21, R 43; Ex 22, R 43; Ex 23, R 44; Ex 35, R 48). He died as a result shortly thereafter (Ex 30, R 46; Ex 29, R 46; Ex 32, R 47; Ex 33, R 47; Ex 34, R 48, Ex 35, R 48; Ex 37, R 49; Ex 38, R 49; Ex 43, R 51; Ex 51, R 54; Ex 53, R 54; Ex 55, R 55; Ex 60, R 56). The official record of death of Suttle (ex 92, R 71) indicated a Natural Death from Croupous Pneumonia, 23 December 1943. The report was signed by a Japanese Probationary Officer, and by "F. J. Murray, Major RAMC who "Signed under Protest", Mitsuo Michikawa, formerly stationed at the camp as English-Japanese interpreter (R 84) - testified that he had seen the accused, Hirata, beat an English Private (R 85) with a saber case and with his hand (R 86) in the guardhouse or in the office (R 89), the prisoner was in the guardhouse three or four days and died, he believed in the hospital. Major Steward and Lt. Wynd were present at the beating (R 93, 94). The admissions and the account of this happening by the accused is included under the statement of the case for the defense.

As to Specification 6. (1 January 1943 to about 1 September 1945 -- accused did -- withhold, deny and deprive many sick American and Allied Prisoners of War of medicine, medical attention and treatment resulting in their serious illnesses, permanent injuries, wounds and death). In the Suttle matter the deprivation of medicine, medical attention and treatment contributed to his death (Ex 19, R 42) Ex 22, R 43; Ex 23, R 44). Several of the Allied Prisoners agree that G1 over died from lack of medicines and medical treatment (Ex 3, R 22; Ex 4, R 27; Ex 6, R 29; Ex 11, R 35; Ex 12, R 36; Ex 16, R 40; Ex 17, R 41; Ex 18, R 42; Ex 19, R 42; Ex 27, R 46). "Glover died because Japs delayed in supplying instruments for operation". (Ex 43, R 51; Ex 53, R 54; Ex 29, R 46; Ex 45, R 52). "Glover died in hospital after the British Medical Officer had appealed to the Japanese Commander and Medical Staff to supply surgical instruments to perform an operation on his leg. The Japanese refused to supply the instruments." (Ex 23, R 44; Ex 57, R 55; Ex 6, R 29; Ex 7, R 30). "Glover - his death was due to lack of medical attention and Surgical requirements. This Surgical equipment, it has since been discovered, was available at the local hospital." (Ex 7, R 30) Capt. Andler M.C., AUS; (Ex 49, R 53) and Sgt James Claude Laird (Ex 95, R 101) agree that Prisoners of War were sent to work without consideration of their condition of health, whether they were American, British, or Dutch. No Japanese medical officer was assigned to the Camp until after the War. No medical Supplies other than aspirin were available at the Camp until some Red Cross drugs arrived in May 1944. No laboratory or hospital equipment of any kind was available. The American medical officer testified that "In July 1945 we were supposed to receive 40 boxes of Red Cross Drugs, - delivered 6 Red Cross cases to us. The 6 cases has been opened and tampered with, many drugs and medical supplies therein had been removed. I saw more American-made scalpels and syringes and other medical instruments and supplies in Umeki's Office. The only place he

could have obtained these items was from the Red Cross boxes intended for the Prisoners." (Ex 49, R 53; See also Ex 95, R 101. Ex 8, R 31). "Van Daalen Meyer died from lack of medical treatment." (Ex 8, R 31; Ex 42, R 51; Ex 45, R 52; Ex 46, R 52). It was a common practice through only in the case of Van Daalen Meyer and Duden (Ex 70, R 60) apparently did it result directly in death for a sick Prisoner of War in a hospital bed to be beaten and turned out to work. (Ex 5, R 29; Ex 17, R 41; Ex 27, R 46; Ex 45, R 52; Ex 60, R 56; Ex 66, R 59; Ex 69, R 59; Ex 70, R 60; Ex 73, R 61; Ex 76, R 62; Ex 79, R 64; Ex 80, R 65; Ex 91, R 69).

As to Specification 8d. (---In April 1943---(accused) as Camp Commander permitted unlawfull unlawful mistreatment, abuse and caused the death of J. Pellencau, by beating, starving, refusing and depriving him of medical treatment). Pellencau about 7 May 1943 at Muroran was killed after torture. (Ex 40, R 50). He died from brutal treatment inflicted in the guardroom (Ex 42, R 51) being beyond recognition after the beating he received from the Japanese guards (Ex 45, R 52; Ex 69, R 59; Ex 8, R 31; Ex 42, R 51).

As to Specification 8e: (About 4 April 1943 (accused) permitted his guards to torture, mistreat and beat with a stick and rubber hose Von Daalen Meyer (Van Der Hayer, Van Daalen) causing him to quit his hospital bed and resulting in his death). April 5th VanDaalen Meyer with a temperature of 102 and higher was forced with others in the same condition to go to work by continous beating from the Jap guards - beaten out of the hospital by Sgt Major Araki and died the same day with his work group. (Ex 45, R 52; Ex 8, R 31. Death Certificate (Ex 93, R 72).

As to Specification 8r. (Accused) as Camp Commander, about 31 December 1943, permitted personnel in his Command to mistreat, abuse, torture, and kill E. Glover or, by cruelly beating him with a stick.) Glover was in his sick bed, very ill with an old injury of his leg and in agony. Araki in the evening, 31st December 1943 beat him viciously with a stick and made two men hold him for roll call parade. He died in the hospital three days later (Ex 5, R 29), from lack of proper medical treatment (Ex 6, R 29; Ex 12, R 36; Ex 15, R 38; Ex 17, R 41; Ex 18, R 42; Ex 23, R 44; Ex 29, R 46; Ex 43, R 51; Ex 53, R 54; Ex 57, R 55; Ex 60, R 56). The Certificate for his death (Ex 93, R 72).

b. For the Defense.

Lt Colonel Shigao Emoto, former Commandant of Hakodate Main Camp, testified as to vast improvements for the benefit of the Prisoners of War which he had effected while he commanded a group of camps, including that immediately commanded by the accused.

He described at length the steps he had taken to effect these reforms. To rectify a complaint of Major Murray, a British Medical Officer, he arranged that Major Murray have a key and access to all medicines available at the first camp. While Hirate did not have direct control over the warders who worked the prisoners of War for the nearby Commercial facility Hirate could complain to the Company of mistreatment and cause the Company to take corrective action. Accused had complete control over the civilians attached to the Army and working on the coast. In February 1945, Lt. General Tamura ordered that no food be given Prisoners of War confined in the guardroom. Accused had fairly wide discretion in command since the branch camp was seven hours distant from the Main Camp by rail.

Masashi Sakanashi (r 159), was formerly and presently of the labor department of Mitsui Asibetsu Company, the commercial facility which which used the prisoners of war dispatched from the first Branch Camp at Muroran. Accused had complained to the company because a Prisoner had been beaten at the coal sorting maching of the company by a warder. The culprit was admonished. Accused had made one or two other complaints to the company and had apparent authority in this manner to look after the prisoners welfare while they worked for the company,

Accused elected to testify under oath on his own behalf; (R 188 et seq) He had no training or instruction with regard to treatment of prisoners of war prior to his assumption of command at Muroran 1 B as camp commander. In November 1942 when ordered to this duty he first heard of the Geneva Convention, relating to prisoners of war. He served as camp commander from November 1942 to January 1945 when he moved the camp to Asibetsu-cho where he remained as camp commander until the end of the war. He was familiar with the complaints of the Prisoners of War through their officers and a "Suggestion Book", as to food (R 195, 196), clothing and medical facilities, upon establishment, the camp received three hundred prisoners

of war all in bad physical condition; about one hundred of them were unable to work and fifty had to be hospitalized. On the occasion of the first receipt of Red Cross supplies accused withheld distribution until he had received the invoice and distribution instructions. Accused kept a record of the more serious punishments which he had given to prisoners of war. He kept records of prisoners' deaths and injuries (Ex 8).

Dr Nakae Koji was formerly medical probationary Officer stationed with anti-aircraft troops in the vicinity of the prisoner of war camp. (R 227). He visited the camp from November 1943 to March 1944 once every two weeks. On one such visit he examined the body for about twenty minutes while it was within a casket in a car. He also prepared a case history based on the report of Major Murray (R 230). He saw Glover and felt that any medical treatment would be useless. An operation for Glover at an earlier period would have been desirable. He adopted the diagnosis of Major Murray for the cause of death on Glover's death certificate. Although he was the sanitation officer of the camp he made only one inspection of the camp which lasted one hour during which he accompanied the accused. There was a completely furnished hospital about one kilometer from the camp. He was unfamiliar with the latrine facilities at the camp. He had never inspected the live bodies of the prisoners of war. He saw two dead bodies and signed three or more death certificates. He had been in the camp hospital but could not recall any details. It would have been difficult to perform a major operation there.

Accused recalled to the stand by the defense (R 269), said that he obtained company doctor for the camp on call from December 1942 until April 1944. Suttle first came to his attention about (November 1943) because Suttle had stolen rations from the warehouse. He conducted the investigation personally and gave Suttle a warning. In December 1943 on two consecutive occasions Suttle again stole from the warehouse so he punished him after personal investigation. He ordered Suttle confined in the guardhouse for about ten days (R 271, Ex J). Outside temperature at that time was from 0 Centigrade (32F) to 6 below 0 Centigrade (21, 23 F). He did this under the authority of Article 12 (effective 13 October 1911) Japanese Code of Punishment, Rules and Regulations, Japanese Army, vol 6 (R 276, Ex K). He gave Suttle three or four blankets and allowed him, bowls of rice, warm water and salt; Suttle was to have one regular meal every three days. When confined Suttle was clothed in an overcoat, winter uniform and underwear, socks and shoes. Accused applied at Suttle in the guard room after Suttle had been there a few days. Suttle (R 278) was leaning against the wall with a blanket or overcoat over his leg. One or two days later a guard informed accused that Suttle was asking for a doctor. Accused ignored the request. A second request came the next day. Accused then ordered Suttle to the hospital. A day or two later a medical orderly reported Suttle's condition as serious. Accused looked at Suttle at the hospital but spoke neither to him or to Major Murray who was treating him. Suttle died either late that day or the following day. Accused admitted that one of his mistakes was ignoring Suttle's plea for medical assistance (R 327).

Accused admitted he had beaten prisoners of war three or four times with the palm of his hand on the cheek. He remembers hitting Number 1111, an English prisoner at roll call two or three times out of temporary emotion because 1111 was sloppy. He regretted his action. Two or three times he pushed a prisoner by the shoulders. He has caused prisoners of war to stand at attention five or six hours in front of the guard's quarters or in his office in their usual clothing; (R 284). He did not recall Glover, Fullenau or Van Daalen Meyer. He had received fourteen or fifteen complaints of guards beating prisoners of war. He punished his camp guards (R 288) and he had caused the company to punish two of their guards therefor (R 290).

5. Opinion

The record is legally sufficient to sustain the findings and sentence of the commission. The commission was constituted by proper authority and had jurisdiction of the accused and the offense. The Commission properly overruled the defense motion to strike certain specifications and to make more definite and certain other specifications. In view of the fact that the Defense was furnished, prior to trial, with copies of all written evidence introduced by the Prosecution, there is no doubt that accused was duly apprised of the charges against him. The Commission properly overruled the Defense motion to move certain portions of Specification 8. To have sustained the motion would simply have resulted in greatly increasing the number of specifications. The Commission could and in fact, did, arrive at a just conclusion by means of exceptions and substitutions.

The Prosecution introduced evidence which under the "Regulations Governing the Trials of Accused War Criminals" (R 3) is sufficient to establish the guilt of the accused upon the specifications of which he was found guilty. While the accused and other defense witnesses denied or contradicted much of the Prosecution testimony the Commission resolved the conflict in evidence and there is no apparent reason why its findings of fact should be disturbed. The Prosecution evidence disclosed a concerted and continuous mistreatment of Allied Prisoners of War over a long period of time resulting in the death of several of them. The accused's testimony that he was not aware that such abuse and mistreatment was taking place is hardly credible in view of the fact that he was present at the camp and much of the abuse and mistreatment occurred at prisoner formations out of doors. It is now settled that a commander is legally responsible and accountable for excesses and violations of the laws of war committed by the troops immediately under his command. The accused's own testimony that he refused the request of Suttle to be hospitalized and that Suttle was later taken to the hospital and died soon thereafter is indicative of a callousness toward the prisoners in his charge that is indefensible and his excuse that it was one of his mistakes is, in fact, no excuse. There are no errors or irregularities which injuriously affect any substantial rights of the accused.

6. RECOMMENDATIONS.

Almost 100 petitions and letters of clemency received from accused's friends, whose signatures thereon total several thousand, have been examined. The petitions relate that accused was born of poor parents in the country, attended church regularly, and studied its teachings. He was scholarly, worked for an education, and knew French and English. He was a kind, generous, and respected citizen, not of a militaristic mind, although he carried out orders, but was criticized for being too generous toward prisoners of war. His aged father and his sister are dependent upon him, and he is believed to have a great future in the reconstruction of Japan.

These recitals, many of which are repeated in the petitions for clemency, create sympathy for the accused, however, they are insufficient to establish a justifiable basis for clemency in the face of the evidence as recorded at his trial.

The Commission sentenced the accused to be hanged by the neck until dead. The sentence is legal. While the accused undoubtedly had a difficult task as a prisoner of war camp commander in view of the food and other shortages existing in Japan, yet it is clear that he did not do his best with what he had available. He permitted the prisoners to be openly and flagrantly abused and there is nothing to indicate that any clemency should be extended to him. Several prisoners, now dead, would probably be alive today if the accused had properly concerned himself with their welfare and had availed himself of those facilities which were available. It is therefore recommended that the sentence be approved and that the record of trial be forwarded to the Supreme Commander for the Allied powers for his action.

7. ACTION.

A form of action designed to carry these recommendations into effect is attached hereto.

/s/ G. R. DOUGHERTY
G. R. DOUGHERTY
Major, A. C.
Acting Asst Staff Judge Advocate

I concur:

/s/ Allan R. Brown
ALLAN R. BROWN
Lt. Colonel, JAGD
Staff Judge Advocate.

HEADQUARTERS EIGHTH ARMY
United States Army
APO 343

June 1946

In the foregoing case of Kaichi Hirata, the petitions and other requests for commutation of the death sentence have been carefully noted but nothing is discovered which would justify clemency. The sentence is approved. Pursuant to Paragraph 5 (h), Regulations Governing the Trial of Accused War Criminals, Headquarters, Supreme Commander for the Allied Powers, dated 6 December 1945, the execution is withheld pending the action of the Supreme Commander for the Allied Powers.

R. L. MICHELSBERGER
Lieutenant General, USA
Commanding.